

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JESSICA BENTON, SHELTY BRYANT,
ANNE MARIE CAVANAUGH, ALYSSA
GARRISON, and CLARE THOMAS,

Plaintiffs.

V.

CITY OF SEATTLE,

Defendant.

No. 2:20-CV-1174

**DEFENDANT CITY OF SEATTLE'S
NOTICE OF INTENT TO FILE A
RESPONSE TO PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING
ORDER**

- (1) Under L.C.R. 65(b)(5), the City hereby notifies the Court that it intends to file a response and opposition to Plaintiffs' Motion for Entry of a Temporary Restraining Order ("TRO").

(2) During a phone conversation on August 2, 2020, Plaintiffs' counsel called to request that the City stipulate to a TRO prohibiting the use of crowd control devices. (Sharifi Dec., ¶¶ 2-3). Without further information or a document to review, the City's counsel advised that Plaintiffs' request for entry of a TRO appeared to contradict determinations made by Judge Robart in *United States v. City of Seattle*, 12-cv-1282-JLR and would be in potential conflict

**DEFENDANT CITY OF SEATTLE'S NOTICE OF INTENT TO FILE A
RESPONSE TO PLAINTIFFS' MOTION FOR TEMPORARY
RESTRANING ORDER**
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1 with this Court's preliminary injunction in *Black Lives Matter v. City of Seattle*, Case No.
 2 2:20-cv-00887-RAJ, Dkt. No. 42, (W.D. Wash. June 17, 2020). (Sharifi Dec., ¶ 4). Counsel
 3 for Defendants asked Plaintiffs' counsel if Plaintiffs were requesting that Judge Robart or
 4 Judge Jones' Orders be modified or stricken. (*Id.* at 4). Plaintiffs' counsel acknowledged the
 5 conflict between Plaintiffs' requested relief and the existing Court orders defined above.
 6 (*Id.*). Plaintiffs' counsel then declared that she wanted a federal judge to restrict the crowd
 7 control devices at issue. (*Id.*). Plaintiffs' counsel then asked if the City would agree, to which
 8 the City did not. (*Id.* at 5).

9 (3) Based on the same set of circumstances, namely the City's crowd management tactics in June
 10 and July 2020, Plaintiffs seek the same relief initially sought by the plaintiffs in *Black Lives*
 11 *Matter v. City of Seattle*, Case No. 2:20-cv-00887-RAJ, Dkt. No. 6-1, a complete bar on tear
 12 gas and crowd control tools. However, this Court has previously considered whether
 13 "complete bar" injunctive relief was appropriate and made a final decision with respect to
 14 the appropriate level of relief.

15 (4) The United States Supreme Court rejected the concept of "[p]ermitting repeated litigation of
 16 the same issue as long as the supply of unrelated defendants holds out.' *Parklane Hosiery*
 17 *Co. v. Shore*, 439 U.S. 322, 328, 99 S. Ct. 645, 650, 58 L. Ed. 2d 552 (1979). (quoting
 18 *Kerotest Mfg. Co. v. C-O-Two Co.*, 342 U.S. 180, 185, 72 S.Ct. 219, 222, 96 L.Ed. 200
 19 (1952)). "The general rule should be that in cases where a plaintiff could easily have joined
 20 in the earlier action or where, either for the reasons discussed above or for other reasons, the
 21 application of offensive estoppel would be unfair to a defendant, a trial judge should not
 22 allow the use of offensive collateral estoppel." *Id.*, 439 U.S. at 331.

1 (5) In this instance, Plaintiffs seek to relitigate issues already contemplated by this Court and
2 by Judge Robart to secure a different outcome based on the same precipitating events.

3 (6) The City respectfully seeks a status conference to discuss Plaintiffs' requested relief in their
4 motion for entry of TRO, and to determine a briefing schedule acceptable to this Court.

5
6 DATED this 4th day of August, 2020.

7 PETER S. HOLMES
8 Seattle City Attorney

9 By: /s/ Ghazal Sharifi
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16 *Attorney for Defendant City of Seattle*

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2020 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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<p><i>[Attorneys for Plaintiffs]</i></p>	

/s/ Ghazal Sharifi
Assistant City Attorney

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